

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GRETCHEN SCOTT LLC,

Plaintiff,

-vs-

COMPLAINT

Civil Action No.

BEATRIXIE DESIGNS, JDA SALES ASSOCIATES
LLC, VANESSA LEME & DALE S. ALLEM,

Defendants.

Plaintiff Gretchen Scott LLC (“Gretchen Scott”), by its attorneys, Harris Beach PLLC, alleges as follows:

1. This is a Civil Action for copyright infringement under the copyright laws of the United States, 17 U.S.C. § 101 *et seq.*

PARTIES

2. Gretchen Scott is a limited liability company duly organized and existing under the laws of the State of New York with a principal place of business at 216 Washington Street, Mount Vernon, New York 10553.

3. Gretchen Scott is the owner of the copyrighted work at issue in this Action.

4. Upon information and belief, at all relevant times herein, defendant Beatrixie Designs (“Beatrixie”) is an unregistered business organization owned and operated by defendant Vanessa Leme (“Leme”).

5. In the alternative, upon information and belief, at all relevant times herein, “Beatrixie Designs” is a pseudonym used by Leme.

6. Leme was the production manager for plaintiff Gretchen Scott from May 2012 through February 2013.

7. Upon information and belief, Leme started Beatrixie after her employment as Gretchen Scott's production manager was terminated in February 2013.

8. In the alternative, upon information and belief, Leme started doing business using the pseudonym "Beatrixie Designs" after her employment as Gretchen Scott's production manager was terminated in February 2013.

9. Upon information and belief, although Beatrixie's principal place of business is located at 37 Merritt Avenue in Eastchester, New York, it is being operated without a license to do business in the State.

10. Upon information and belief, defendant JDA Sales Associates LLC ("JDA") is a corporation registered to do business in the State of Florida with a principal place of business at 1546 Landing Lane, Neptune Beach, Florida 32266. On information and belief, JDA serves as a sales representative for Beatrixie's line of clothing and apparel.

11. Upon information and belief, defendant Dale S. Allem ("Allem") is the owner and principal employee of JDA. Prior to representing Beatrixie, Allem and JDA served as a sales representative for plaintiff Gretchen Scott.

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this Action arises under the copyright laws of the United States, 17 U.S.C. § 101 *et seq.*

13. This Court has personal jurisdiction over defendant Beatrixie because it has done and continues to regularly do business within this State, and because the causes of action in this case arise from business transacted by Beatrixie in this District.

14. This Court has personal jurisdiction over defendant Leme because she resides within this District, because she has done and continues to regularly do business within this State through her company, Beatrixie, and because the causes of action in this case arise from business transacted by Leme as an owner and/or representative of Beatrixie in this District.

15. This Court has personal jurisdiction over defendant JDA because it has done and continues to regularly do business within this State, and because the causes of action in this case arise from business transacted by JDA in this District.

16. This Court has personal jurisdiction over defendant Allem because he has done and continues to regularly do business within this State through his company, JDA, and because the causes of action in this case arise from business transacted by Allem as an owner and/or representative of JDA in this District.

17. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(a).

FACTUAL BACKGROUND

18. Plaintiff Gretchen Scott designs and sells clothing and accessories created primarily by one of its owners and primary designers, Ms. Gretchen Scott (“Ms. Scott”), who is the Chief Executive Officer of the Company.

19. Prior to November 6, 2012, Ms. Scott created an original design for a women’s tunic in her capacity as an employee of Gretchen Scott, which she called the Reef Tunic (the “Reef Tunic Work”). A photograph of the Reef Tunic Work is attached as **Exhibit A**.

20. The Reef Tunic Work is the subject of U.S. Copyright Registration No. VA 1-917-731. A copy of the copyright registration is attached as **Exhibit B**.

21. In her capacity as production manager for Gretchen Scott, Leme had access to and was closely familiar with the Reef Tunic Work. However, Leme was never authorized by the Plaintiff to independently manufacture, reproduce, market, distribute or sell the Reef Tunic Work.

22. In February 2013, Leme's employment as Gretchen Scott's production manager was terminated.

23. Upon information and belief, the defendant Beatrixie, under Leme's direction, has reproduced, distributed copies of, and publicly displayed the Reef Tunic Work without Plaintiff's authorization.

24. In the alternative, upon information and belief, Leme, using the pseudonym Beatrixie Designs, has reproduced, distributed copies of, and publicly displayed the Reef Tunic Work without Plaintiff's authorization.

25. Upon information and belief, defendant Beatrixie owns and operates the URL www.beatrixie.com.

26. In the alternative, upon information and belief, Leme owns and operates the URL www.beatrixie.com.

27. Upon information and belief, Beatrixie and/or Leme has used the web address www.beatrixie.com to market for sale unauthorized copies of the Reef Tunic Work. A screenshot depicting unauthorized copies of the Reef Tunic Work is attached as **Exhibit C**.

28. Upon information and belief, the defendants JDA and/or Allem have facilitated the unauthorized display, marketing and distribution of the Reef Tunic Work by serving as a sales representative for Beatrixie in this District and elsewhere.

COUNT I (AGAINST ALL DEFENDANTS)

**INFRINGEMENT OF GRETCHEN SCOTT'S
COPYRIGHT TO THE REEF TUNIC WORK
(COPYRIGHT REGISTRATION No. VA 1-917-731)**

29. Gretchen Scott repeats and realleges each and every preceding paragraph as though fully set forth herein.

30. Defendants have infringed and continue to infringe on Gretchen Scott's registered copyright in the Reef Tunic Work.

31. As a result of Defendants' acts of infringement, Gretchen Scott has sustained and will continue to sustain irreparable harm for which there is no adequate remedy at law as well as damages. Gretchen Scott is entitled to recover damages and Defendants' profits, but no less than the statutory minimum as set forth in 17 U.S.C. § 504.

32. Upon information and belief, Defendants have actual knowledge of Gretchen Scott's copyright in the Reef Tunic Work and have willfully infringed on this copyright for their own financial benefit.

WHEREFORE, Plaintiff Gretchen Scott respectfully requests judgment as follows:

A. Enjoining Defendants, their agents, servants, employees, and all other persons acting under their permission and authority, from infringing the copyrighted work, pursuant to 17 U.S.C. § 502;

B. Awarding Gretchen Scott damages in an amount to be determined at trial, constituting Gretchen Scott's damages together with Defendants' profits, pursuant to 17 U.S.C. § 504(b), or in the alternative, constituting statutory damages, pursuant to 17 U.S.C. § 504(c);

C. Ordering Defendants to deliver for destruction all copies of the Reef Tunic Work in Defendants' possession or control and all drawings, designs, images and other materials for making infringing copies, pursuant to 17 U.S.C. § 503;

D. Awarding Gretchen Scott costs and reasonable attorneys' fees, pursuant to 17 U.S.C. § 505;

E. Awarding Gretchen Scott pre-judgment interest;

F. Awarding Gretchen Scott interest on any judgment; and

G. Awarding Gretchen Scott such other and further relief as the Court deems just and equitable.

JURY DEMAND

Plaintiff Gretchen Scott demands a jury trial on all issues so triable.

Dated: November 25, 2015

HARRIS BEACH PLLC

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